

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • <http://www.hro.house.state.tx.us>

Steering Committee:

Dwayne Bohac, Chairman
Alma Allen, Vice Chairman

Rafael Anchia
Angie Chen Button
Joe Deshotel

John Frullo
Donna Howard

Ken King
Brooks Landgraf
J. M. Lozano

Eddie Lucio III
Ina Minjarez

Andrew Murr
Joe Pickett
Gary VanDeaver

HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 04, 2017
85th Legislature, Number 44
The House convenes at 10 a.m.

Six bills are on the daily calendar for second reading consideration today. The table of contents appears on the following page.

The following House committees were scheduled to hold public hearings: Environmental Regulation in Room E1.026 at 8 a.m.; Investments and Financial Services Subcommittee on Bond Indebtedness in Room E2.010 at 8 a.m.; Insurance in Room E2.016 at 8 a.m.; Public Education in Room E2.036 at 8 a.m.; Public Health in Room E2.012 at 8 a.m.; Homeland Security and Public Safety in Room E2.014 at 10:30 a.m. or on adjournment; Urban Affairs in Room E2.028 at 10:30 a.m. or on adjournment; Appropriations Subcommittee on Budget Transparency and Reform in Room E1.030 at 11 a.m. or on adjournment; Investments and Financial Services in Room E2.010 at 2 p.m. or on adjournment; Judiciary and Civil Jurisprudence in Room E2.026 at 2 p.m. or on adjournment; and Culture, Recreation and Tourism in Room E1.010 at 2 p.m. or on adjournment.

The following Senate committees were scheduled to hold public hearings: Business and Commerce in Room E1.016 at 8 a.m.; Education in Room E1.028 at 9 a.m.; Natural Resources and Economic Development in Room E1.012 at 9 a.m.; and Criminal Justice in Room E1.016 at 1:30 p.m. or on adjournment.



Dwayne Bohac
Chairman
85(R) - 44

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, April 04, 2017

85th Legislature, Number 44

HB 10 by Price	Requiring health plans to treat mental health and physical benefits equally	1
HB 1619 by Shine	Revising penalties for outdoor burning violations	9
HB 630 by Howard	Requiring HHSC and related entities to broadcast, archive open meetings	12
HB 544 by C. Anderson	Expanding use of the Rural Water Assistance Fund	15
HB 1062 by Gooden	Modifying board membership for Trinity Valley Community College District	17
HB 402 by Huberty	Returning a percentage of emissions inspection fees to Harris County	19

SUBJECT: Requiring health plans to treat mental health and physical benefits equally

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Collier, Cortez,
Guerra, Klick, Oliverson, Zedler

0 nays

WITNESSES: For — Sherri Layton, Association of Substance Abuse Programs; Monica Villarreal, Center for Public Policy Priorities; Christine Bryan, Clarity Child Guidance Center; Lauren Kreeger, League of Women Voters of Texas; Deborah Rosales-Elkins, NAMI Texas; Nakia Winfield, NASW-Texas Chapter; Jamie Dudensing, Texas Association of Health Plans; Jacob Cuellar, Texas Hospital Association; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Jennifer Henager, Central Texas Regional Advisory Council; Linda Townsend, CHRISTUS Health; Kathryn Lewis, Disability Rights Texas; Eric Woomer, Federation of Texas Psychiatry; Christine Reeves, Heart of Texas Regional Advisory Council; Gyl Switzer, Mental Health America of Texas; Greg Hansch, NAMI Texas; Michelle Hansford, One Voice Texas; Anthoney Farmer-Guerra, Spread Hope Like Fire; Mark Mendez, Tarrant County; Danielle Roberts, Tarrant County College Nursing (NSA); Josette Saxton, Texans Care for Children; Dan Hinkle, Texas Academy of Family Physicians; Cassandra Hulsey, Texas Association of School Psychologists; Lee Johnson, Texas Council of Community Centers; Carl Dunn, American College of Obstetricians and Gynecologists-Texas District; Joel Ballew, Texas Health Resources; Thomas Kim, Texas Medical Association, Texas Pediatric Society, FTP, Texas Society of Clinical Oncology; Karen Jeffries, Chrystal Brown, Cathryn El Burley, Connie Castleberry, Naomi Clifton-Hernandez, Gabrielle Frey, Kimberley Grant, Janice Miller, Dorothy Sanders-Thompson, Jill Steinbach, and Eugenia "Jeanie" Zelanko, Texas Nurses Association; Kathy Hutto, Texas Occupational Therapy Association; Kaitlyn Clifton, Texas Pediatric Society; Emily Alexanderson and Melinda Hester, Texas State University School of Nursing; Nancy Walker, University Health System/Bexar County; and eight individuals)

Against — Lee Spiller, Citizens Commission on Human Rights;
(*Registered, but did not testify*: Monica Ayres; Stephanie Croman; Zoe Croman; Jon Ellzey; Jeff Fischer; Jean LeFebvre; Norman Moore; John Schoenfield; Pam Spiller; Savita Wadhwani; Eric Whittier; George Weir; and Anja Wulf)

On — Russell Smith, Austin Child Guidance Center; Alison Boleware, Hogg Foundation for Mental Health; (*Registered, but did not testify*: Trina Ita, Lauren Lacefield Lewis, and Alejandrina "Sherry" Valdez, Health and Human Services Commission; Rachel Bowden, Texas Department of Insurance)

BACKGROUND: The Mental Health Parity and Addiction Equity Act was signed into federal law in 2008 and amended in 2010 by the Affordable Care Act. The law, with a few exceptions, prevents group health plans and individual health insurance plans that provide mental health or substance use disorder benefits from setting benefit limitations on behavioral health benefits that are more restrictive than medical or surgical benefits.

28 TAC, part. 1, ch. 21, subch. P, sec. 21.2402(16) defines treatment limitations as limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment. Sec. 21.2402(5) defines a financial requirement as one that includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit.

Subch. P, secs. 21.2403 and 21.2404 require the Texas Department of Insurance to regulate mental health parity for large employer group health plans, but do not require it to regulate mental health parity for individual health plans or small employer group health plans.

DIGEST: CSHB 10 would require a health benefit plan that provides benefits for mental health conditions and substance use disorders to provide those benefits under the same terms and conditions as the plan's medical and surgical benefits. The bill also would establish a behavioral health ombudsman, create a mental health parity work group, and require state agencies and other stakeholders to submit reports on behavioral health

care access issues.

Mental health parity requirements. The bill would prohibit a health benefit plan from setting quantitative or nonquantitative treatment limitations on behavioral health conditions that are more restrictive than the plan's treatment limitations for medical or surgical expenses.

The bill would define a quantitative treatment limitation as a limit that determines whether, or to what extent, benefits are provided based on an accumulated amount, such as an annual or lifetime limit on days of coverage or number of visits. The term would include a deductible, a copayment, coinsurance, or another out-of-pocket expense or annual or lifetime limit, or another financial requirement.

The bill would define a nonquantitative treatment limitation as a limit on the scope or duration of treatment that is not expressed numerically, including standards for determining medical necessity or appropriateness, restrictions based on geographic location, facility type, or provider specialty, and other criteria.

The Texas Department of Insurance (TDI) commissioner would enforce the mental health parity requirements by evaluating the benefits and coverage offered by a health benefit plan for quantitative and nonquantitative treatment limitations for in-network and out-of-network inpatient and outpatient care, emergency care, and prescription drugs.

A health benefit plan would have to define a mental health condition and a substance use disorder in a manner consistent with generally recognized independent standards of practice.

The TDI commissioner would adopt rules to administer the bill's behavioral health parity provisions.

Affected health benefit plans. CSHB 10 would apply to a health benefit plan that provides benefits or coverage for medical or surgical expenses incurred as a result of a health condition, accident, or sickness and for treatment expenses incurred as a result of a mental health condition or substance use disorder that is offered by: an insurance company; a group

hospital service corporation; a fraternal benefit society; a stipulated premium company; a health maintenance organization; a reciprocal exchange; a Lloyd's plan; a nonprofit health corporation that holds a certificate of authority; or an Employee Retirement Income Security Act (ERISA) group health plan that holds a certificate of authority.

The bill also would apply to a small employer health benefit plan subject to the Health Insurance Portability and Availability Act in Insurance Code, ch. 1501 and to a consumer choice of benefits plan issued under Insurance Code, ch. 1507.

Qualified health plans under the Affordable Care Act. CSHB 10 would not require a qualified health plan, as defined by the federal Affordable Care Act (ACA), to provide a benefit for mental health conditions and substance use disorders that exceeds the ACA-specified essential health benefits and if the state would have to make a payment as required by the ACA.

Exceptions. CSHB 10 would not apply to a health benefit plan that provided coverage:

- only for wages or payments in lieu of wages for a period during which an employee was absent from work because of a sickness or injury;
- as a supplement to a liability insurance policy;
- for credit insurance;
- only for dental or vision care;
- only for hospital expenses;
- only for indemnity for hospital confinement or;
- only for accidents.

CSHB 10 also would not apply to a Medicare supplemental policy, a workers' compensation insurance policy, or medical payment insurance coverage provided under a motor vehicle insurance policy. It also would not apply to a long-term insurance policy, including a nursing home fixed indemnity policy, unless the TDI commissioner determined that the policy provided benefit coverage so comprehensive that the policy was a health

benefit plan affected by the bill.

Ombudsman duties. CSHB 10 would require the Health and Human Services Commission (HHSC) executive commissioner to designate an ombudsman for behavioral health access to care. The ombudsman would help insured and uninsured consumers and behavioral health care providers navigate and resolve issues regarding consumer access to behavioral health care, including for mental health conditions and substance use disorders. The ombudsman also would be required to monitor and report potential parity violations of state or federal regulations and to receive and report concerns and complaints related to inappropriate care or mental health commitment, among other duties listed in the bill.

TDI would be required to appoint a liaison to the ombudsman to receive reports of concerns, complaints, and potential parity violations from the ombudsman, consumers, or behavioral health care providers.

Mental health parity work group. CSHB 10 would require HHSC to create and facilitate a mental health condition and substance use disorder parity work group to increase understanding of and compliance with state and federal rules on the availability and terms of behavioral health care benefits. The work group would include the ombudsman; various mental health and substance use disorder consumers, advocates, providers, and professionals; and representatives from health benefit plans and state agencies.

The work group would hold quarterly meetings and study and make recommendations on federal and state regulations of behavioral health care benefits. A report on the work group's findings would be due to the applicable House and Senate committees and state agencies by September 1 every even-numbered year. The workgroup would be abolished on September 1, 2021.

Reports. The bill would require TDI and HHSC to conduct separate studies and submit reports comparing medical or surgical benefits and behavioral health benefits provided by health benefit plan issuers and Medicaid managed care organizations (MCOs), respectively. They would

have to collect and report data on benefits that are subject to prior authorization or utilization review; denied as not medically necessary or experimental or investigational; internally appealed, including whether the appeal was denied; or subject to an independent external review, including data that indicates whether the denial was upheld. TDI and HHSC would have to submit their findings by September 1, 2018.

Effective date. CSHB 10 would take effect September 1, 2017, and would apply to a health benefit plan issued on or after January 1, 2018.

**SUPPORTERS
SAY:**

CSHB 10 would strengthen enforcement of mental health parity at the state level by enacting recommendations from the House Select Committee on Mental Health. Federal law since 2008 has required that health care plans that provide both mental and physical health benefits treat those benefits equally. The bill would address consumer and industry concerns that in some circumstances health insurance plans in Texas may violate the federal parity law by denying patients mental health benefits because the requested treatment requires prior authorization or the treatment falls outside the scope of what the insurance plan deems medically necessary.

Patients who experience difficulties receiving mental health treatment are especially at risk for being readmitted for the same condition, and high readmission rates increase the cost of health care. By creating guidelines for state enforcement of existing federal mental health parity law, the bill would reduce the long-term costs of health care by helping to ensure timely and appropriate treatment for patients with mental health issues.

Consumers often do not know how to navigate a complex system of health care plans and providers. CSHB 10 would simplify the complaint process for consumers and providers by establishing a behavioral health ombudsman at the Health and Human Services Commission (HHSC) and a liaison to the ombudsman at the Texas Department of Insurance (TDI). The ombudsman would protect consumers further by collecting and reporting complaints about inappropriate care or mental health commitment. The partnership between HHSC and TDI would ensure consumers and providers received appropriate information and assistance for resolving claim denials and behavioral health access issues.

The bill would create a process for better communication among TDI, HHSC, health plans, providers, and consumers about parity enforcement. The work group's recommendations would help entities address barriers hindering consumer access to behavioral health care.

CSHB 10 also would create clear definitions for quantitative and nonquantitative treatment limitations. Enforcing parity for a quantitative treatment limitation means, for example, that the co-pay amount for a cardiologist appointment would equal the co-pay amount for a psychiatrist appointment. Enforcing parity for a nonquantitative treatment limitation would mean a patient admitted to the hospital for a broken leg would also have to be admitted to the hospital for a severe acute or chronic episode of bipolar disorder, schizophrenia, paranoia, or post-traumatic stress disorder. Including these definitions in statute would create clarity for consumers, insurance regulators, and the industry, and would eliminate differences in how treatment for physical and mental health conditions is reimbursed and administered.

CSHB 10 would not mandate new mental health coverage but rather would enforce federal legislation enacted in 2008 by the Bush administration. The bill would not change existing regulations of health insurance plans nor the type of plan a consumer could purchase. It also would not increase the cost of health insurance plans because parity already is calculated in benefit premiums.

OPPONENTS
SAY:

CSHB 10 would decrease consumers' flexibility in choosing a health insurance plan with benefits that best fit their needs. Some consumers do not want a plan to have the same benefits for mental health as for physical health.

Any expansion of mental health coverage could create incentives that could lead to increased involuntary confinements for patients in psychiatric hospitals.

NOTES:

A companion bill, SB 860 by Zaffirini, was scheduled for a public hearing today in the Senate Committee on Business and Commerce.

CSHB 10 differs from the bill as filed by:

- defining quantitative treatment limitation and expanding on the definition of nonquantitative treatment limitation;
- exempting insurance plans that provide coverage only for accidents;
- specifying that the TDI commissioner would enforce compliance of the mental health parity requirements by evaluating a health benefit plan's quantitative and nonquantitative treatment limitations;
- increasing representation in the work group of mental health and substance use disorder stakeholders; and
- requiring the ombudsman to receive and report concerns and complaints about inappropriate care or mental health commitment.

SUBJECT: Revising penalties for outdoor burning violations

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 9 ayes — Pickett, E. Thompson, Cyrier, Dale, Kacal, Landgraf, Lozano,
Reynolds, E. Rodriguez

0 nays

WITNESSES: For — Steve Casey, Bell County Fire Marshall

Against — None

On — (*Registered, but did not testify*: Michael Blinn and Kelly Linden,
Texas Commission on Environmental Quality)

BACKGROUND: Health and Safety Code, sec. 382.018 is part of the Texas Clean Air Act that establishes the authority and duties of the Texas Commission on Environmental Quality to regulate the outdoor burning of waste and combustible material by rule.

Under Water Code, sec. 7.187(b), burning certain combustible or waste materials outdoors in violation of Texas Clean Air Act rules is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST: HB 1619 would amend Water Code, sec. 7.187(b) to revise penalties attached to burning heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes (combustible materials) and insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, furniture, carpet, or items containing natural or synthetic rubber (waste materials).

A violation of the Texas Clean Air Act's waste-burning rules would be a class C misdemeanor (maximum fine of \$500) if it was a first offense and did not involve burning combustible material.

A violation would be a class B misdemeanor (up to 180 days in jail and/or

a maximum fine of \$2,000) if it was a subsequent violation that:

- did not involve burning combustible or waste materials; or
- did involve burning waste materials but no prior violations involved burning combustible or waste materials.

A violation would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the violation:

- did involve burning combustible materials; or
- was a subsequent offense involving waste materials and a prior violation involved burning combustible or waste materials.

HB 1619 also would require that a violation be prosecuted only under a municipal ordinance if the violation was a first offense under both the outdoor burning rules and the municipal ordinance and did not involve the burning of certain combustible materials.

This bill would take effect September 1, 2017, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 1619 would help conserve law enforcement resources and provide authorities with more penalty options when addressing violations of rules under the Texas Clean Air Act that involve burning potentially hazardous materials.

First-time violations currently are punishable by a class A misdemeanor, a penalty that can profoundly affect an individual's livelihood and employment prospects. In practice, this has led some law enforcement officers to issue warnings, rather than class A misdemeanors, to avoid handing out overly harsh penalties, especially to first-time offenders who may have been unaware of the rules governing outdoor burning of waste. As a result, some burning offenses are going unpunished, while others are punished too severely. Trust in and cooperation with law enforcement can erode when individuals feel unfairly penalized, and the bill would help alleviate this negative impact on the relationship between communities and law enforcement.

HB 1619 would create a more proportional response by allowing authorities to give tickets for class C misdemeanors for certain first-time violations. This could result in more uniform enforcement and reduce the number of improper burns in the state. It also would conserve valuable fire and law enforcement resources and alleviate jail crowding, while still providing an effective deterrent to would-be offenders.

An individual who received a ticket and a fine would have clear knowledge of the law and of the escalating punishments for subsequent offenses. If someone had a previous ticket, it also would demonstrate to a judge that the person had a history of violating the law on burning waste or other materials, which could inform the judge's decision on the appropriate penalty for the violation.

**OPPONENTS
SAY:**

Decreasing penalties for first-time offenders who could endanger public health by violating waste-burning rules under the Texas Clean Air Act could dilute the deterrent to such behavior.

NOTES:

A companion bill, SB 1915 by Buckingham, was scheduled for a public hearing in the Senate Natural Resources and Economic Development Committee on April 4.

SUBJECT: Requiring HHSC and related entities to broadcast, archive open meetings

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 6 ayes — Elkins, Capriglione, Gonzales, Shaheen, Tinderholt, Uresti
0 nays
1 absent — Lucio

WITNESSES: For — (*Registered, but did not testify*: Casey Haney, Blakemore Public Affairs; Paul Townsend, Children's Hospital Association of Texas; Kelley Shannon, Freedom of Information Foundation of Texas; Leah Gonzalez, Healthy Futures of Texas; Dixie Davis, League of Women Voters of Texas; Gyl Switzer, Mental Health America of Texas; Christine Yanas, Methodist Healthcare Ministries; Eric Kunish, National Alliance for Mental Illness-Austin; Greg Hansch, National Alliance on Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Adriana Kohler, Texans Care for Children; Tom Banning, Texas Academy of Family Physicians; Sarah Mills, Texas Association for Home Care and Hospice; Michael Schneider, Texas Association of Broadcasters; Mary Allen, Texas Association of Community Health Centers; Gwen Daverth, Texas Campaign to Prevent Teen Pregnancy; Nora Belcher, Texas e-Health Alliance; Troy Alexander, Texas Medical Association; Erin Cusack, Texas Nurse Practitioners; Andrew Cates, Texas Nurses Association; Clayton Travis, Texas Pediatric Society; Donnis Baggett, Texas Press Association; Jason Sabo, The Immunization Partnership; James Thurston, United Ways of Texas; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Bryan Black, Health and Human Services Commission)

DIGEST: HB 630 would require the Health and Human Services Commission (HHSC) and each health and human services agency to broadcast over the

internet live video and audio of each open meeting of the agency and to archive a reasonable-quality video and audio recording of the broadcast. The agencies would have to provide access to the archived video and audio on their websites within seven days after a meeting and to maintain it on the website for at least two years after the date it was first made available.

HHSC and each associated agency would be required to post on its website a notice of the date, time, place, and subject of each open meeting at least 72 hours before the scheduled start time.

These broadcast, archiving, and notice requirements would apply to meetings of advisory bodies that advise the executive commissioner or a health and human services agency. The archived video and audio would have to be made available through the website of the agency to which the advisory body provided advice.

HHSC would be required to consider contracting through competitive bidding with a private individual or entity to broadcast and archive an open meeting. The bill would allow an agency to use a room made available to it on request in any state building for an internet broadcast of an open meeting.

HHSC, each health and human services agency, and any advisory body would be exempt from the broadcast, archiving, and notice requirements if a catastrophe or a technical breakdown prevented the agency from complying. After the catastrophe or technical breakdown, the agency would have to make all reasonable efforts to make the required video and audio of the open meeting available in a timely manner.

The bill would take effect September 1, 2017, and would apply only to an open meeting held on or after September 1, 2023.

**SUPPORTERS
SAY:**

HB 630 would improve transparency and increase public engagement by making the open meetings of health and human services agencies available online. Although the Health and Human Services Commission (HHSC) currently is working to broadcast and archive video and audio of

most meetings on its website, concerns have been raised about inadequate online access to open meetings for all health and human services agencies. This bill would continue efforts that are already underway and ensure the online availability of video and audio for all open meetings of HHSC and related agencies and advisory bodies.

HHSC and its related entities consist of officials responsible for making decisions that affect many Texans, including vulnerable populations such as children, the elderly, and people with disabilities. Given public interest in these issues, it is important to improve transparency for HHSC priorities and to facilitate public participation in the decision-making of these agencies.

Many stakeholders, including members of the public and health care professionals, find it difficult to take off work or travel to Austin to provide timely input at meetings. This bill would reduce barriers to participation and allow citizens statewide to access internet broadcasts or archived videos at their convenience.

HB 630 contains measures that would minimize implementation costs. HHSC and its associated agencies would have six years to fully implement the integration of webcasting technology in new facilities. To reduce the cost of compliance, HHSC could contract for these services with private entities through competitive bidding. The commission already has begun efforts to broadcast some of its meetings, including contracting with a private entity and installing the necessary technology in all hearing rooms. The bill also would allow HHSC to request the use of video/audio-capable rooms in any state building for meetings.

OPPONENTS
SAY:

No apparent opposition.

SUBJECT: Expanding use of the Rural Water Assistance Fund

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

WITNESSES: For — Lara Zent, Texas Rural Water Association; (*Registered, but did not testify*: Buddy Garcia, Aqua Texas; Joe Morris, Aqua Water Supply Corporation; Charlie Schnabel, Manville Water Supply Corporation; Jess Heck, SouthWest Water Company)

Against — None

On — (*Registered, but did not testify*: Jessica Zuba, Texas Water Development Board)

BACKGROUND: Water Code, sec. 15.994 allows the Texas Water Development Board to use money in the Rural Water Assistance Fund to contract for outreach, financial, and technical assistance to assist rural local governments in obtaining financing from the fund, which may be used to provide zero interest loans, loan forgiveness, or grants for certain water and wastewater projects.

DIGEST: HB 544 would allow the Texas Water Development Board to use money in the Rural Water Assistance Fund to contract for certain services to assist rural local governments in obtaining financing from any source for eligible water and wastewater projects. The bill also would add planning to the list of contracted services.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 544 would increase financing opportunities for water and wastewater infrastructure projects in rural communities through the Rural Water Assistance Fund. Rural areas often lack the resources to access Texas Water Development Board (TWDB) funds and need flexibility to use other state or federal funds that could provide better interest rates or loan forgiveness.

The bill also would clarify that the TWDB could use money in the fund to contract specifically for planning services to help rural communities find financing opportunities. Contracting for planning assistance promotes long-term stability and facilitates financing for small rural utilities.

The flexibility provided by this bill would help the State Water Implementation Fund for Texas (SWIFT) meet its goal of applying at least 10 percent of funds to water projects for rural political subdivisions or agricultural water conservation. Meeting the SWIFT goal is necessary to improve water facilities and expand conservation efforts in rural areas.

**OPPONENTS
SAY:**

HB 544 would add planning to the services for which the TWDB could contract to help rural utilities find financial backing for water projects, but current law already allows the board to contract for outreach, financial, and technical assistance, which would include planning services.

NOTES:

A companion bill, SB 785 by Hinojosa, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on February 22.

SUBJECT: Modifying board membership for Trinity Valley Community College District

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard,
Morrison, Turner

0 nays

WITNESSES: None

DIGEST: HB 1062 would authorize the governing board of the Trinity Valley Community College (TVCC) District by order or resolution to increase the number of governing board members to 11.

The order or resolution would have to create transition terms of office to conform with elections held in even-numbered years and staggered six-year terms. Initial board members would be required to draw lots to determine their terms, with five members serving two-year terms, three members serving four-year terms, and three members serving six-year terms.

The bill would take effect September, 1, 2017.

SUPPORTERS SAY: HB 1062 would allow the governing board of the Trinity Valley Community College (TVCC) District to increase its membership from nine to 11 members, which would ensure representation for new school districts that join TVCC's taxing district through an annexation election.

Providing greater representation could encourage independent school districts to join the TVCC community, which could reduce in-district tuition and fees for TVCC students and provide more opportunities for high school students to enroll in dual-credit courses.

OPPONENTS SAY: No apparent opposition.

NOTES: A companion bill, SB 286 by Nichols, passed unanimously in the Senate on March 22.

SUBJECT: Returning a percentage of emissions inspection fees to Harris County

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 8 ayes — Pickett, E. Thompson, Cyrier, Dale, Kacal, Lozano, Reynolds,
E. Rodriguez

0 nays

1 absent — Landgraf

WITNESSES: For — (*Registered, but did not testify*: Donna Warndorf, Harris County;
Grace Chimene, League of Women Voters of Texas; Donald Lee, Texas
Conference of Urban Counties)

Against — None

On — Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did
not testify*: David Brymer and Donna Huff, TCEQ)

BACKGROUND: In several counties, including those that do not meet federal air quality
standards, emissions inspections are conducted as part of the annual state
vehicle safety inspection. Health and Safety Code, secs. 382.202 and
382.302 authorize the Texas Commission on Environmental Quality
(TCEQ) to assess fees for these inspections.

Under sec. 382. 202(g)(1), TCEQ must use a portion of the fees collected
to fund the Low-Income Vehicle Repair Assistance, Retrofit, and
Accelerated Vehicle Retirement Program (LIRAP), which assists low-
income vehicle owners whose vehicles fail emissions testing. Sec.
382.202(g)(2) requires TCEQ, to the extent practicable, to distribute
available funding generated from the fees to participating counties in
reasonable proportion to the amount collected in those counties or regions.

Under sec. 382.220(d), funding that counties receive from the fees may be
used for local initiative projects in an amount not to exceed \$7 million per
fiscal year and may be made available only if the county participates in

LIRAP and provides matching funds for the project. Health and Safety Code, sec. 382.220(b) describes programs that qualify as local initiative projects.

DIGEST: HB 402 would require the Texas Commission on Environmental Quality, to the extent practicable, to distribute 90 percent of the revenue derived from emissions inspection fees collected in a county with a population of at least 4 million (Harris County) back to that county.

The county could use these funds for programs designed to reduce congestion on existing roads, excluding toll projects. It would not have to match funds for congestion reduction projects and no longer would be required to match funds for local initiative projects (LIPs) but could allocate money for LIPS, congestion-reduction projects, or the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program at its discretion. Money awarded to the county in a particular fiscal year for programs involving construction could be used for that program or project in subsequent fiscal years. To the extent these provisions conflicted with another provision of the same subchapter, these would prevail.

Funding claims for LIPs or projects described by the bill that involved construction in Harris County would have to be presented to the comptroller within four years of the end of the original appropriation's fiscal year.

The bill would take effect on September 1, 2017.

SUPPORTERS SAY: HB 402 would help ensure that, when practicable, a specific percentage of the revenue generated by Harris County's emissions inspection fees was returned to the county. Counties currently are not guaranteed any share of the funds, despite implementing the program and collecting the fees. During the years that Harris County has participated in the program, it has generated significantly more in revenue than it has received. Money generated by Harris County should be spent there.

In addition, by relieving Harris County from the matching requirement for receiving funds for local initiative projects (LIP), HB 402 would allow the

county to focus its funds on other programs that would improve air quality. Under the bill, Harris County could undertake LIPs to reduce traffic congestion by, for example, enhancing public transportation systems. Congestion reduction projects would be funded in addition to, not instead of, the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP). Such projects would reduce vehicle-related emissions further, consistent with the purpose of the LIRAP and LIP programs.

**OPPONENTS
SAY:**

While HB 402 is well intentioned, it would be better to expand these benefits to all counties participating in the vehicle emissions inspection and maintenance programs. All participating counties currently must match funds for LIPs in order to receive funding. HB 402 would exempt Harris County from this requirement.

The original purpose of the emissions inspection fees was to provide assistance to low-income vehicle owners whose vehicles failed the emissions test. Care should be taken that additional programs, such as those for congestion reduction, not reduce the funds available for LIRAP.